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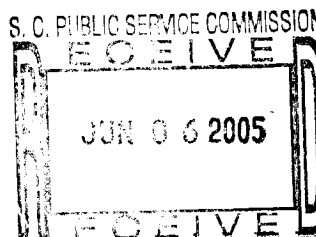
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June 2, 2005



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VIA EMAIL AND U.S. MAIL

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Application of Carolina Water Service, Inc.;
Docket No. 2004-357-WS

Dear Mr. Terreni:

Pursuant to S.C. Code Ann. § 58-3-260(D)(1) (Supp. 2004), Carolina Water Service, Inc. ("CWS"), the applicant in the above-referenced docket, hereby requests that it be permitted to rebut the contents of the *ex parte* communication received by Commissioner David A. Wright from S. Jahue Moore, Esquire, submitted on behalf of Joel Player and JP Development Company and dated May 18, 2005. The undersigned received notice of this communication on May 27, 2005 by way of Commissioner Wright's May 25, 2005 letter on file.

CWS certainly agrees that the communication was inadvertently received by Commissioner Wright. However, because Mr. Player made a statement to the Commission at the May 2, 2005 "night hearing" in this docket, CWS is compelled to rebut the content of the communication. **Unless the Commission desires otherwise, CWS proposes that the instant letter constitute its rebuttal of the content of Mr. Moore's letter.** Please so advise if the Commission desires that the rebuttal be submitted in some other format.

Much of Mr. Moore's letter deals with allegations pertaining to matters not within the jurisdiction of the Commission (e.g., the existence or non-existence of a pollution free zone easement on real property alleged to belong to Mr. Moore's client, DHEC requirements for pollution free easements, etc.) and which can be dealt with in the appropriate administrative or judicial forums. Mr. Moore does, however, make two statements which CWS feels it necessary to rebut – even

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though they do not directly relate to any issue properly before the Commission.

The first statement is that "Carolina Water [sic] has refused to provide my client's mobile home park with water." This is not entirely accurate for several reasons. It is true that Mr. Moore's client has requested that CWS extend water service to his proposed mobile home park; but in so doing he has indicated that he is unwilling to install and convey to CWS the water well facilities necessary to supply potable water. Rather, Mr. Moore's client wants to sell bulk water from his well to CWS for distribution to customers in the proposed development. In other words, Mr. Moore's client is unwilling to make a contribution in aid of construction. *Cf.*, 26 S.C. Code Ann. Regs. R. 103-702.15 (Supp. 2004). As the Commission is aware, persons or entities wishing to obtain an extension of water utility facilities for their own benefit are expected to bear the costs of that extension and contribute the facilities to the utility. Given that, a more accurate statement would have been that CWS has refused to extend water service to the proposed mobile home park on terms and conditions demanded by Mr. Moore's client which are inconsistent with recognized utility practice.

Even assuming that CWS was willing to accept the terms and conditions demanded by Mr. Moore's client in this regard (which it is not), the developer's proposal to sell to CWS potable water from his well for distribution by CWS to inhabitants of the proposed mobile home park is not permitted under law. In effect, Mr. Moore's client seeks an arrangement in which he would operate as a public utility. See S.C. Code Ann. § 58-5-10(3) (Supp. 2004). As the Commission is aware, no certificate of public convenience and necessity has been issued to Mr. Moore's client for that purpose. See 26 S.C. Code Ann. Regs. R. 103-704 (Supp. 2004). Given that, a more accurate statement would also have been that CWS has refused to purchase bulk water from an entity not certificated by this Commission.

Moreover, and again assuming that CWS was willing to accept the terms and conditions demanded by Mr. Moore's client in this regard (which it is not), the developer's proposal would have to be submitted to the Commission in the form of a proposed contract since reliance upon a bulk source arguably pertains to CWS's ability to provide water service. See 26 S.C. Code Ann. Regs. R. 103-743 (Supp. 2004). Given that, a more accurate statement would also have been that CWS has refused to enter into an agreement for the purchase of bulk water not approved by this Commission.

The second statement that CWS wishes to rebut is the contention that Mr. Moore's client has a right to demand that the CWS well "be decommissioned." CWS has all of the necessary Commission and DHEC permits to operate its Blue Ridge Terrace/ Heatherwood System, which is Drinking Water System # 3250015. See CWS Application, Docket No. 2004-357-WS, December 17, 2004, Exhibit "C." Some 203 customers are being provided with potable water service from the lawfully permitted well in question. Apparently, Mr. Moore's client would have DHEC interrupt

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service to these customers in order to coerce an arrangement for the extension of water service to his proposed mobile home park that is more favorable than available under standard utility practice recognized by this Commission and which would be unlawful if implemented under the current circumstances.

In conclusion, CWS would note that Mr. Moore's client is not a customer of CWS. His statements at the night hearing in this docket, and the content of Mr. Moore's letter, are self-serving attempts to gain advantage in a business undertaking, have no bearing on matters in issue in this docket, and should therefore be given no consideration by the Commission.

By copy of this letter, I am making counsel for the other parties of record aware of CWS's rebuttal. If you have any questions, or need additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/twb

Enclosures

cc: The Honorable John M. Knotts
Florence P. Belser, Esquire
C. Lessie Hammonds, Esquire
Charles H. Cook, Esquire
Jessica J. O. King, Esquire

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